

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Markup of H.J. Res. 71 and H.J. Res 72
November 3, 2015

(As Prepared for Delivery)

Today the Subcommittee will begin the markup of two resolutions of disapproval under the Congressional Review Act. These resolutions address the EPA's recently published final rules to regulate carbon dioxide emissions from new and existing electric generating units.

The Congressional Review Act is an oversight tool that provides the legislative branch with the power to overturn a major regulation issued by a federal agency. The Act can be invoked to prevent a rule that exceeds an agency's statutory authority, or to prevent a rule that is likely to be unworkable, or that would do more harm than good. In the case of EPA's carbon dioxide regulations, the two resolutions of disapproval would prevent all these things.

Over the past 24 months in hearings and letters this Committee has developed an extensive record documenting the unprecedented reach and strong potential for harmful, costly impacts of EPA's regulations. Based on this oversight, these resolutions are necessary for protecting ratepayers, the reliability of our electricity supplies, and our nation's global competitiveness.

In the regulations at issue today, EPA seeks to go far beyond its statutory authority and transform how electricity is generated, transmitted, and consumed in the United States. There is nothing in the Clean Air Act provisions used to justify the rules that suggests such sweeping agency action is authorized. Indeed, the sheer sweep of these rules is unprecedented in the 45-year history of this statute.

Put plainly: If Congress wanted to authorize a comprehensive transformation of the way America produces, delivers, and uses its electricity in order to address global warming, it would have said so. If Congress wanted to see a wholesale federal takeover of state authority on electricity policy, it would have said so. And if Congress wanted to write fossil fuels largely out of America's energy future, it would have said so as well.

These rules will produce not only higher electric rates, but also pose serious threats to electricity reliability and result in substantial loss of jobs and the potential for future employment growth—national harms we may begin to see soon, as states and industry grapple with the prospects of these rules. And all this sacrifice would achieve a hypothetical reduction in future temperatures too small to ever verify.

These rules, moreover, go well beyond traditional source performance standards authorized in the statute, and seek to force states and utilities to make potentially irreversible decisions and investments now. In the guise of the EPA's new and expanded definition of what standards it can require, the agency has created a compliance schedule and complicated incentive scheme that lock states into making expensive and far reaching choices concerning their electricity systems as soon as possible, before the long term implications of their decisions can be evaluated, or the long term implications of EPA's regulatory over-reach can be understood.

In my view, the discrepancy between what EPA is trying to do and what the Clean Air Act actually allows is so wide that these resolutions are appropriate. More than half the states in the country have already filed legal challenges to the rule for existing plants and requested that the rule be stayed. This extraordinary level of opposition is telling given that EPA claims that they successfully collaborated with the states and came up with reasonable compliance options that states can live with.

EPA has made clear through its comments that the agency again wants to make its rules as much of a done deal as possible before the courts can render a final verdict. These resolutions of disapproval would preclude the agency from engaging in this highly inappropriate tactic—and in so doing protect ratepayers from the harm of EPA's actions.

These resolutions of disapproval offer an opportunity to restore the rule of law and protect ratepayers. I urge my colleagues to join me in this effort and stop these ill-advised regulations.

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